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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/245,493	02/05/1999	DAVID CINCOTTA	2435.1	4947
5514	7590	06/07/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			NGUYEN, NGA B	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/245,493	DAVID CINCOTTA	
	Examiner Nga B. Nguyen	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 August 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This Office Action is the answer to the communication filed on August 6, 2003, which paper has been placed of record in the file.
2. Claims 1-5 and 24 are pending in this application.

### ***Response to Arguments/Amendment***

3. Applicant's arguments with respect to claims 1-5 and 24 have been considered but are moot in view of new grounds of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al (hereinafter Walker), U.S. Patent No. 5,862,223.

Regarding to claim 1, Walker discloses a method, to be administered by an administering entity, for allowing a plurality of participants to prepay for services or goods to be received at a future date from one of a plurality of specified providers, the method comprising the steps of:

executing contracts between the administrating entity and each of the plurality of participants in which a contracting participant pays to the administrating entity a cash amount and in return receives from the administrating entity a promise to deliver at a future date a specified measure of services or goods, the services or goods to be provided by whichever of the plurality of specified providers the contracting participant selects (column 23, lines 24-30, the end users pay to the central controller a flat fees that would cover any number of transactions over a given period of time, allowing the end users to **subscribe to the service** much as they would subscriber to a newspaper; or column 22, lines 12-45, central controller requires the end users to prepay for the services receive), the selection being made by the contracting participant substantially on the future date on which the services or goods will be provided (column 8, lines 50-55, the user can select from a particular list of experts prior to submitting his request);

determining, for each of the plurality of specified providers, a predicted total measure of services or goods that will be required from that provider by the aggregate of the plurality of participants (column 23, lines 32-34, e.g. an expert requires fifty dollars for an expert answer, central controller may mark this up by 20%, charging the end user sixty dollars); and

executing contracts between the administrating entity and each of the plurality of specified providers in which the administrating entity pays to a contracting provider a cash amount and in return receives from the contracting provider a promise to deliver a specified measure of services or goods, the cash amount that correspond to the

measures of services or goods being set by the provider (column 23, lines 34-45, experts are retained by central controller on a *salaried basis*, with revenues collected from end users paying those salaries).

Regarding to claim 2, Walker further discloses wherein the administrating entity ascertains the measure of services or goods to be specified in each contract with a provider in accordance with the predicted total measure of services or goods that will be required from that provider (column 23, lines 32-34, e.g. an expert requires fifty dollars for an expert answer, central controller may mark this up by 20%, charging the end user sixty dollars).

Claims 3-4 are written in means and parallel the limitations found in claims 1-2 above, therefore, are rejected by the same rationale.

Regarding to claim 5, Walker discloses a financial data processing system for allowing a plurality of participants to prepay for services or goods to be received at a future date from one of a plurality of specified providers, comprising:

a machine-readable storage device which stores data indicating measures of services or goods for which each participant has prepaid and measures of services or goods which each provider has contracted to provide (column 14, lines 15-25, data storage device 250 contains databases used in the processing of transactions, including expert database 255, end user database 260, end user request database 265, expert answer database 270, etc.);

a processing circuit for determining, for each of the providers, a predicted total measure of services or goods that will be required from that provider by the aggregate

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of the plurality of participants (column 13, lines 30-35, central controller 200 includes central processor 205, payment processor 230, billing processor 225, etc.),

wherein the system is configured such that cash amounts that correspond to measures of services or goods are set by each provider (column 23, lines 32-34, e.g. an expert requires fifty dollars for an expert answer, central controller may mark this up by 20%, charging the end user sixty dollars) and such that the participants select which of the plurality of providers will deliver the services or goods at substantially on the future date on which the services or goods will be provided (column 8, lines 50-55, the user can select from a particular list of experts prior to submitting his request).

Claim 24 is written in machine-readable data storage medium and parallel the limitations found in claim 1 above, therefore, is rejected by the same rationale.

### ***Conclusion***

6. Claims 1-5 and 24 are rejected.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
C/o Technology Center 3600  
Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

  
NGA NGUYEN  
PRIMARY EXAMINER

April 12, 2006